Costa Rica Page 1 of 11



Costa Rica

Country Reports on Human Rights Practices - 2003 Released by the Bureau of Democracy, Human Rights, and Labor February 25, 2004

Costa Rica is a longstanding, stable, constitutional democracy with a president and unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. The presidential term of Abel Pacheco de la Espriella, of the Social Christian Unity Party (PUSC), began in May 2002, after he garnered 58 percent of the vote in a fair and free election. The judiciary is independent.

The 1949 Constitution abolished the military forces. The Ministry of Public Security--which includes specialized units such as the anti-narcotics police--and the Ministry of the Presidency share responsibility for law enforcement and national security. Civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market economy was based primarily on light industry, tourism, and agriculture; the country's population was approximately 3.9 million. The Constitution protects the right to private property; however, domestic and foreign property owners have in the past encountered difficulty obtaining adequate, timely compensation for lands expropriated for national parks and other purposes. The law grants substantial rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Real gross domestic product (GDP) growth was 5.6 percent, compared with 2.8 percent in 2002. The unemployment rate was 6.7 percent. An estimated 19 percent of the population lived in poverty.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. There were some instances of physical abuse by police and prison guards, and penitentiary overcrowding remained a problem. The judicial system processed some criminal cases very slowly, resulting in lengthy pretrial detention for some persons charged with crimes. Domestic violence was a serious problem, and traditional patterns of unequal opportunity for women remained, despite continuing government and media efforts to advocate change. Abuse of children also remained a problem, and child prostitution was a serious problem. Child labor persisted, although it has declined during the last 5 years. Trafficking in persons was a problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings.

There was one instance of a killing by security forces that occurred when they were removing squatters (see Section 1.f.).

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits cruel or degrading treatment and holds invalid any statement obtained through violence,

Costa Rica Page 2 of 11

and the authorities generally abided by these prohibitions; however, members of the public forces were responsible for some physical abuse. The Ombudsman's office was an effective mechanism for lodging and recording complaints of police misconduct (see Section 4).

As of December, the Ombudsman's office received 53 reports of police abuse of authority or misconduct. Of these, 43 reports were still being investigated at year's end, 8 were determined to be legitimate, and 2 were determined to be without merit. This compared with 12 legitimate complaints received in 2002 and 21 in 2001.

Prison conditions generally met international standards. Prisoners were usually separated by sex and by level of security (minimum, medium, and maximum); however, overcrowding sometimes prevented proper separation. Most but not all pretrial detainees were held separately from convicted prisoners. As of September, the Ombudsman's office received 14 complaints of physical abuse of prisoners by guards, of which 7 were still being investigated, two were determined to be legitimate, and 5 were determined to be without merit. The office also received 50 other complaints from prisoners alleging inadequate medical care, arbitrary administrative procedures, violation of due process of disciplinary procedures, unfair denial of prison transfer requests, and poor living conditions. Of these 50 complaints, 25 were still being investigated, 12 were determined to be legitimate, and 13 were determined to be without merit. The Ombudsman's office investigated all complaints and referred serious cases of abuse to the public prosecutor. Illegal narcotics were readily available in the prisons, and drug abuse was common.

Penitentiary overcrowding remained a problem. As of December, the Social Adaptation Division of the Ministry of Justice reported a total of 12,908 persons under its supervision, including 6,723 jailed prisoners, 1,216 persons required to spend nights and weekends in jail, 4,501 persons in supervised work programs requiring no jail time, and 468 juveniles. The overall prison overpopulation rate was 8 percent; however, crowding was more severe in several small jails. The facility in Perez Zeledon had the highest rate of overcrowding at 61 percent. Problems at La Reforma prison complex, the country's largest, have drawn attention to conditions in that prison. The Ombudsman attributed the problems to overcrowding, crumbling infrastructure, lack of adequately trained prison personnel, lack of prisoner employment programs, and insufficient medical care. Local judicial officials also cited the practice of grouping hardened criminals together with first-time offenders because of a shortage of maximum-security units and a poorly functioning drug-rehabilitation program.

As of December, the Ministry of Justice reported a total of 1,109 women under its supervision, including 454 jailed prisoners, 194 persons required to spend nights and weekends in jail, and 541 persons in supervised work programs requiring no jail time. Female prisoners were held separately in conditions that generally were considered fair, although the overcrowded women's prison held 50 percent more inmates than its intended capacity.

Juveniles were held in separate detention facilities in campus-like conditions that generally were considered good. The juvenile penal system held 28 youths in detention and another 440 in supervised alternative sanction programs.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile

The Constitution and law prohibit arbitrary arrest and detention, and the Government generally respected these prohibitions in practice.

In 1996, the Government combined several police units into a single "public force" that includes the Border Guard, the Rural Guard, and the Civil Guard. The public force is approximately 9,805 strong (an additional 300 slots need to be filled), not including municipal police forces, which are under the budget and supervision of each municipality. The public force has a Disciplinary Legal Department with an Internal Affairs Unit to investigate charges made against its members. During the year, these investigations resulted in 181 dismissals, primarily for unauthorized absence (80 cases), alcohol and drug abuse (44 cases), corruption (19 cases), and excessive physical force (6 cases).

The Pacheco administration continued implementation of the 1994 Police Code and the 2001 Law for Strengthening the Civilian Police in an effort to depoliticize and professionalize the police force. That law amended the Police Code to replace military ranks with civilian titles, required the police academy to develop a course and diploma in police administration that includes material on the fundamental and universal principles of human rights, and attempted to ensure that police officials were not dismissed due to a change in administrations.

Costa Rica Page 3 of 11

The law requires issuance of judicial warrants before making arrests. The Constitution entitles a detainee to a judicial determination of the legality of the detention during arraignment before a court officer within 24 hours of arrest. The authorities generally respected these rights.

The law provides for the right to bail, and the authorities observed it in practice. The authorities generally did not hold detainees incommunicado. With judicial authorization, the authorities may hold suspects incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days. A criminal court may hold suspects in pretrial detention for periods of up to 1 year, and the court of appeals may extend this period to 2 years in especially complex cases. The law requires that suspects in pretrial detention have their cases reviewed every 3 months by the court to determine the appropriateness of continued detention. According to the Ministry of Justice, in July there were 1,850 persons in pretrial detention, representing 28 percent of the prison population.

The Constitution bars exile as punishment, and it was not used.

e. Denial of Fair Public Trial

The Constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice. The Constitution provides for the right to a fair trial, and an independent judiciary enforced this right; however, the legal system faced many challenges, including significant delays in the adjudication of civil disputes and a growing workload supported by a shrinking budget.

The judicial branch of government includes the upper and lower courts, the judicial investigative police department, the office of the prosecutor, the office of the public defender, forensic laboratories, and the morgue. The Supreme Court is the highest court, with 22 justices known as magistrates. The Legislative Assembly elects those magistrates for 8-year terms, which are renewed automatically unless two-thirds of the Assembly opposes such renewal. Overall, the Supreme Court has a reputation for independence and integrity. Below the Supreme Court, the next tier of courts is organized at the circuit level. The final tier of courts, or courts of the first instance, operate at the municipal level.

Accused persons can select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent. Persons accused of serious offenses and held without bail sometimes remained in pretrial custody for long periods (see Section 1.d.). Lengthy legal procedures, numerous appeals, and large numbers of detainees caused delays and case backlogs.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices; government authorities generally respected these prohibitions, and violations were subject to effective legal sanction. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in investigations of genocide, homicide, procurement of minors, production of pornography, smuggling of minors, corruption of minors, trafficking in the organs of minors, and international crimes (which include terrorism and trafficking in slaves, women, children, or narcotics). Legal quidelines on the use of wiretaps, however, are so restrictive that the use of wiretaps was rare.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Irregular enforcement of property rights and duplicate registrations of title damaged the real property interests of many who believed they held legitimate title to land. Landowners throughout the country have suffered frequent squatter invasions for years. In July, the security forces removed about 500 squatters from a 1,000-hectare parcel of bamboo forest owned by the Standard Fruit Company, resulting in the death of one squatter. At year's end, an investigation into this death was under way.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

In an August survey by La Nacion newspaper of 184 journalists on their perception of freedom of the press, 41

Costa Rica Page 4 of 11

percent said they left out information in reporting because of legal concerns, 79 percent said they felt pressure not to investigate certain issues, and 22 percent claimed that they had received some type of threat during the previous 12 months relating to the performance of their job. The greatest number of threats came from business and political interests. Of the surveyed journalists, 75 percent indicated that they felt constrained in their practice by existing legislation, and the same proportion were unsatisfied with the slow progress the Assembly had made in reforming existing laws.

A 1996 "right of response" law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Print and electronic media continued to criticize public figures; however, media managers found it difficult to comply with provisions of this law. The Penal Code outlines a series of "insult laws" that establish criminal penalties of up to 3 years in prison for those convicted of "insulting the honor or decorum of a public official." The law also identifies defamation, libel, slander, and calumny as offenses against a person's honor that can carry criminal penalties. The Inter-American Press Association and the World Press Freedom Committee asserted that such laws had the effect of restricting reporting by the media, and that they wrongly provided public officials with a shield from public scrutiny by citizens and the press.

On December 23, journalist Ivannia Mora was murdered; on December 28, the police arrested her former employer and charged him with the killing. Her attempt to start a competing newspaper appeared to be the motive.

The authorities arrested five suspects in the July 2001 murder of popular radio host Parmenio Medina; at year's end, they were detained pending trial.

The Office of Control of Public Performances rates films and has the authority to restrict or prohibit their showing; it has similar powers over television programs and stage plays. A tribunal reviews appeals of the office's actions.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

In June, an estimated 50,000 workers and students staged a protest rally in central San Jose during strikes by public teachers and public utility workers. The demonstration ended peacefully and without incident. In September, several thousand dock workers in the province of Limon went on strike, as did workers from the petroleum parastatal. There were some confrontations with police, several arrests and a few injuries.

Most cases were dismissed for the 63 demonstrators arrested in July 2002 protests that blocked several major highways; in one of the few cases that went to trial, the court acquitted former Deputy Celimo Guido.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution establishes Roman Catholicism as the state religion; however, it also prohibits the State from impeding the free exercise of other religions "that do not impugn universal morality or proper behavior." Members of all faiths freely practiced their religion without government interference. Religious education teachers in public schools must be certified by the Roman Catholic Church Conference, which does not certify teachers from other denominations or faiths. Denominational and nondenominational private schools were free to offer any religious instruction they saw fit. Foreign missionaries and clergy of all faiths worked and proselytized freely.

The Government does not restrict the establishment of churches. New churches, primarily evangelical Protestant churches that are located in residential neighborhoods, occasionally have encountered problems with local municipalities due to neighbors' complaints about noise and traffic. Some have been closed as a result.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

Costa Rica Page 5 of 11

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. There were no restrictions on travel within the country, emigration, or the right of return.

There was a long tradition of providing refuge to persons from other countries. The law provides for granting refugee status or asylum to persons who meet the definition of the U.N. 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Refugee Department, in the General Directorate of Migration, is in charge of refugee status determination. The Government makes a distinction between political asylum and refugee status, the former handled by the Minister of Foreign Affairs and the latter by the Refugee Department.

During the year, the Government received 12,468 applications for refugee status, of which 11,852 were from Colombians. From January to July, the Government recognized 1,182 persons as refugees, of which 1,063 were of Colombian origin. This compares to 3,785 requests in 2002, of which 3,613 were from Colombians. These figures include family members. As of August 1, the UNHCR reported the total refugee population to be 14,008, including 8,760 Colombian refugees. The majority entered in legal visitor status and applied for asylum. Those who sought temporary refugee status were expected to return to their country of origin once the period of conflict ended there.

The Constitution specifically prohibits repatriation of anyone subject to potential persecution. The authorities regularly repatriated undocumented Nicaraguans, most of whom entered the country primarily for economic reasons. According to the General Directorate of Migration, between January and August, the Government had deported 690 persons, of which 492 were Nicaraguans, and denied entry to 26,005 persons, of which 22,334 were Nicaraguans.

Allegations of abuse by the Border Guard periodically arose. Although instances of physical abuse appeared to have declined, there continued to be credible reports of extortion of migrants by border officials.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through free and fair elections held on the basis of universal suffrage and by secret ballot every 4 years. The independent Supreme Electoral Tribunal ensured the integrity of elections, and the authorities and citizens respected election results. Presidents may seek reelection after sitting out two 4-year terms. Assembly members may seek reelection after at least one term out of office.

In the February 2002 elections, the failure of any one presidential candidate to win 40 percent of the popular vote necessitated a runoff election in April, which was won by Abel Pacheco of the Social Christian Unity Party. PUSC candidates won 19 of the Legislative Assembly's 57 seats. The National Liberation Party won 17 seats, and several other parties hold the remaining seats.

Women encountered no legal impediments to their participation in politics and were represented increasingly in leadership positions in the Government and political parties. To increase women's representation in government, the Supreme Electoral Tribunal required that a minimum of 40 percent of candidates for elective office be female and that women's names be placed accordingly on the ballots by party slate. The First Vice President (who is also a cabinet member), the Minister of Children's Welfare, the Minister of Health, and the Minister of Women's Affairs were women. There were 20 women among the Legislative Assembly's 57 deputies, including 4 legislative committee chairwoman, and women held several prominent offices in the 3 largest political parties.

Indigenous people may participate freely in politics and government; however, in practice, they have not played significant roles in these areas, except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. They accounted for about 1 percent of the population, and their approximately 20,000 votes constituted an important swing vote in national elections. No member of the Legislative Assembly identified himself as indigenous.

There were three Afro-Caribbean members in the Assembly; one represented San Jose province and two

Costa Rica Page 6 of 11

represented the Caribbean province of Limon. The country's 100,000 Afro-Caribbeans, who mostly resided in Limon province, enjoyed full rights of citizenship, including the protection of laws against racial discrimination.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Various human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Costa Rican Commission for Human Rights and the Commission for the Defense of Human Rights in Central America monitored and reported on human rights, as did the Ombudsman's office.

The Ombudsman's office served as a recourse for citizens who had complaints about violations of their civil and human rights and about deficiencies in public and private infrastructure. The Legislative Assembly elects the Ombudsman for a 4-year, renewable term. The Ombudsman's office was part of the legislative branch, ensuring a high degree of independence from the executive branch. The law provides for the functional, administrative, and judicial independence of the Ombudsman's office. The office investigated complaints and, when appropriate, initiated suits against officials. It was divided into nine different directorates, including one for women's issues, one for children and adolescents, as well as a "special protection" directorate for populations such as indigenous people, senior citizens, prisoners, persons with disabilities, immigrants, etc.

Several international organizations concerned with human rights, including the Inter-American Institute for Human Rights and the Inter-American Court of Human Rights, were located in San Jose.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides that all persons are equal before the law, and the Government generally respected this provision.

Women

The Government identified domestic violence against women and children as a serious societal problem. The National Institute for Women (INAMU), an autonomous institution created in 1998 that is dedicated to gender equality, received 13,560 calls on its domestic abuse hotline from January through July, compared with 63,990 calls in all of 2002. INAMU attributed the decline to better police training and the hiring of more female police officers, which in turn led to more immediate and direct intervention. Between January and August, INAMU counseled 3,609 female victims of abuse in its San Jose office and accepted 176 women in INAMU-run shelters.

The Office of the Special Prosecutor for Domestic Violence and Sexual Crimes prosecuted 448 cases related to domestic violence during 2002, compared with 456 cases in 2001. INAMU reported that 25 women and girls were killed in incidents of domestic violence between January and September, compared with 24 during 2002.

The 1996 Law Against Domestic Violence established precautionary measures to help victims. The authorities incorporated training on handling domestic violence cases into the basic training course for new police personnel. The domestic violence law requires public hospitals to report cases of domestic violence against women. It also denies the perpetrator possession of the family home in favor of the victim. The public prosecutor, police, and the Ombudsman all had offices dedicated to this problem. The law against sexual harassment in the workplace and educational institutions sought to prevent and punish sexual harassment in those environments.

Prostitution is legal for persons over the age of 18. The Penal Code prohibits individuals from promoting or facilitating the prostitution of individuals of either sex, independent of the individual's age, and the penalty is increased if the victim is under the age of 18.

The 1990 Law for the Promotion of the Social Equality of Women prohibits discrimination against women and obligates the Government to promote political, economic, social, and cultural equality. As part of its 3-year National Plan for Equality of Opportunity between Women and Men, the Government established an office for gender issues in almost all ministries and most parastatal organizations.

According to the U.N. Development Program, women over age 15 represented 36.6 percent of the labor force. Most women (76 percent) worked in the service sector, with the remainder working in industry (17 percent) and agriculture (6 percent). Women occupied 45 percent of professional and technical positions, and 30 percent of

Costa Rica Page 7 of 11

legislative, senior official, and managerial positions. The Constitution and Labor Code require that women and men receive equal pay for equal work; however, the estimated earned income for women was approximately 78 percent of the earned income for men, despite the fact that 20.5 percent of women in the workforce had some university instruction, compared to 11.4 percent of men.

Children

The Government was committed to children's rights and welfare through well-funded systems of public education and medical care. It also established a legal framework intended to comply with the Convention on the Rights of the Child and other international standards. Primary education is compulsory, free, and universal. The law requires 6 years of primary and 3 years of secondary education for all children, and attendance is required until age 15. School attendance requirements are generally enforced, with an estimated primary school dropout rate as of August of 2.7 percent and a secondary school dropout rate of 5.5 percent. There was no difference in the treatment of girls and boys in education or in health care services. The country had a high rate of literacy (96 percent) and a low rate of infant mortality (11 persons per 1,000). The Government spent over 5 percent of GDP on medical care, including that for children. The autonomous National Institute for Children (PANI) oversaw implementation of the Government's programs for children. In May 2002, President Pacheco changed the title of PANI's Executive Director to the Minister of Child Welfare.

In recent years, PANI increased public awareness of abuse of children, which remained a problem. PANI's budget was \$19,832,000 (8,131 million colones), a 21 percent increase over the 2002 budget. From January to April, PANI assisted 5,391 children, including 184 cases of substance abuse, 283 cases of physical abuse (compared with 403 in 2002), 2,984 cases of sexual abuse (compared with 3,475 in 2002), and 924 cases of psychological abuse (compared with 1,601 in 2002). The 1997 Code of Childhood and Adolescence redefined psychological abuse and increased awareness of it. Traditional attitudes and the inclination to treat such crimes as misdemeanors sometimes hampered legal proceedings against those who committed crimes against children.

The Government, police sources, and UNICEF representatives acknowledged that child prostitution was a serious problem (see Section 6.f.).

The NGO Casa Alianza operated a 24-hour telephone help line that received 136 accusations of exploitation of minors from January through August. Casa Alianza estimated that of the approximately 1,500 children living on the street, 76 percent were addicted to drugs and 29 percent survived by prostitution. In 2002, the organization produced a study in which it criticized the Government for failure to fund PANI adequately. It also criticized PANI for lacking the professional and technical resources needed to address the problems of street children in the proper psychological, social, and legal context.

The Constitution and the Labor Code provide special occupational protection for minors and establish a minimum working age of 15 years. Child labor is a problem mainly in the informal sector of the economy (see Section 6.d.).

Persons with Disabilities

The 1996 Equal Opportunity for Persons with Disabilities Law prohibits discrimination, provides for health care services, and mandates provision of access to buildings for persons with disabilities. This law was not enforced widely, and many buildings remained inaccessible to persons with disabilities. The Ministry of Education operated a Program for Persons with Disabilities, including a national resource center that provided parents, students, and teachers with advanced counseling, training, and information services. The Ministry reported that 19,782 students with disabilities were registered in the school system during the year, and that 46 special education centers had been created.

Indigenous People

The population includes nearly 64,000 indigenous persons among 8 ethnic groups. Most (73 percent) lived in traditional communities on 22 reserves which, because of their remote location, often lacked access to schools, health care, electricity, and potable water. The Ombudsman had an office to investigate violations of the rights of indigenous people.

Section 6 Worker Rights

a. The Right of Association

Costa Rica Page 8 of 11

The law specifies the right of workers to join unions of their choosing without prior authorization, and workers exercised this right in practice. The Labor Code also guarantees freedom of association in the negative sense, i.e. the right not to join a union and to leave a union, and accordingly prohibits any action that might infringe that right. About 12 percent of the work force was unionized, and approximately 80 percent of all union members were public sector employees. Unions operated independently of government control.

Some trade union leaders contended that the existence of worker "solidarity associations" in some enterprises displaced unions and discouraged collective bargaining. However, since 1993, these non-dues-collecting organizations have been prohibited by law from representing workers in collective bargaining negotiations or in any other way assuming the functions of or inhibiting the formation of trade unions. Instead, their function has been to offer membership services, including credit union programs, matching-fund savings accounts, and low-interest loans.

The law prohibits discrimination against union members and imposes sanctions against offending employers. However, a 2001 International Labor Organization (ILO) report noted continued problems related to the slowness and inefficiency of redress procedures for unjustified firings and discriminatory antiunion measures, especially in the private sector. According to the Labor Ministry, the situation has improved, and the number of outstanding cases was reduced from 16,619 in 1998 to 7,742 in 2002. The Ministry credits the establishment of specialized labor courts and the appointment of 37 new judges working expanded hours with reducing the backlog. In 2000, the Ministry created the Center for Alternative Resolution of Labor Disputes (RAC), which depends on conciliation and arbitration and dispenses with the legal formalities of the labor courts. During the year, RAC handled 2,462 cases, 47 percent of which resulted in an agreement between the parties.

Delays in processing court rulings were common throughout the judicial branch, with little improvement in the slow and ineffective recourse procedures in response to anti-union discrimination. The Ministry of Labor continued its efforts to modernize the National Inspection Directorate, by increasing the authority of regional officers to investigate and process cases of alleged abuse by employers. These regional offices also established local forums where government officials, employers, and employees could discuss labor issues. Inspectors were provided increased opportunities for training and participation in Ministry of Labor administration.

Unions could and did form federations and confederations and affiliate internationally.

b. The Right to Organize and Bargain Collectively

The Constitution provides for the right to organize and the right to voluntary collective bargaining. Foreign nationals are expressly prohibited from exercising direction or authority in unions. The ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) cited the importance of amending both the Labor Code and the Constitution in order "to abolish the current excessive restrictions on the right of foreign nationals to hold trade union office."

Specific provisions of the 1993 Labor Code reforms provide protection from dismissal for union organizers and members during union formation; however, the employer is not obligated to follow any specific procedures to prove grounds for dismissal. The revised provisions require employers who are found guilty of unfair labor practices to reinstate workers fired for union activities; however, enforcement of the measure was lax. In 1999 and again in 2002, the CEACR noted its concern that no prior authorization from the administrative authority is required for dismissal. It also noted that legislation needs to be amended "to expedite judicial proceedings concerning anti-union discrimination and to ensure that the decisions thereby are implemented by effective means."

If a trade union of which at least 34 per cent of the workforce are members requests collective bargaining, the employer is obligated to initiate the bargaining process. If the employer refuses to do so, or if no agreement is reached, the workers may have recourse to the judicial procedures that exist to resolve socio-economic disputes, which include the possibility of exercising the right to strike. In the event of noncompliance with an agreement by an employer, the trade unions can, in addition to taking legal action to force the employer to comply, request that the employer be fined and forced to pay compensation.

Private sector unions had the legal right to engage in collective bargaining; however, collective bargaining diminished as a result of several factors, including lengthy delays in court processing of unfair dismissal suits of union organizers. The 2001 ILO report drew attention to the "enormous imbalance" in the private sector between the number of collective agreements concluded by trade union organizations (12, with 7,200 workers covered) and direct pacts concluded by nonunionized workers (130). The COE noted that trade union confederations linked this imbalance with employers or solidarity associations, an allegation that employers denied. The ILO requested that

Costa Rica Page 9 of 11

the Government take the necessary measures to promote collective bargaining within the meaning of ILO Convention 87 and to hold an investigation by independent persons concerning the reasons for the increase in direct pacts with nonunionized workers.

The law provides for the right to strike, and workers exercised this right. The general requirements set out by the legislature for a strike to be legal include the requirement that at least 60 percent of the workers in the enterprise support strike action. The Constitution and Labor Code restrict the right of public sector workers to strike. Following the Constitutional Chamber's ruling in August 2000 that the prohibition of strike action in public services contained in the Labor Code was unconstitutional, the prohibition applies only to essential services that are listed restrictively and directly concern the national economy or public health. However, they also include transport services, which in the view of the CEACR is "incompatible with the right of workers' organizations to organize their activities and to formulate their programs in full freedom," as set out in ILO Convention 87. The CEACR also criticized the 60 percent vote required to call a legal strike, noting that account should be taken only of votes cast, and that the required quorum and majority should be fixed at a reasonable level.

In practice, strikes, whether legal or not, were tolerated. There were a number of strikes by public sector workers during the year. In May and June, electricity and telecommunication workers were out for 3 weeks and public school teachers went on strike for 1 month. In neither case did workers lose their salaries. In September, dock workers in the province of Limon went on strike as did workers from the petroleum parastatal. Nonetheless, the COE reported that workers in the rail, maritime, and air transport sectors were prohibited from exercising their right to strike.

There were no legal restrictions on the right of private sector workers to strike, but few private sector workers belonged to unions. Private sector strikes rarely occurred, and there were no major strikes during the year.

All labor regulations apply fully to the country's nine export processing zones (EPZs). The Labor Ministry oversaw labor regulations within the EPZs.

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, and there were no reports that it occurred. Laws prohibit forced and bonded labor by children, and the Government generally enforced this prohibition effectively.

d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution and the Labor Code provide special occupational protection for minors and pregnant and nursing women, and establish a minimum working age of 15 years. Adolescents between the ages of 15 and 18 may work for a maximum of 6 hours daily and 36 hours weekly with special permission from PANI, while children under the age of 15 may not work legally. The law prohibits night work and overtime for minors. A higher minimum age for admission to employment, such as 18 years, applies to certain activities considered to be unhealthy or hazardous. In addition, minors are entitled to facilities allowing them to attend educational establishments, through school arrangements and timetables adapted to their interests and employment conditions, and to participate in apprenticeship training programs.

PANI, in cooperation with the Labor Ministry, generally enforced these regulations in the formal sector. Due to limited government resources for enforcement, some children worked on the fringes of the formal economy in violation of these limits. Youths under the age of 18 may not work in the banana industry.

Child labor was a problem mainly in the informal sector of the economy, including small-scale agriculture, domestic work, and family-run enterprises. Child prostitution remained a serious problem (see Section 6.f.). In August, the Ministry of Labor and ILO released the "National Report of the Results of the Survey of Child and Adolescent Labor in Costa Rica." According to the report, of the 1.1 million children and adolescents between the ages of 5 and 17 in the country, 11 percent were employed or looking for work. Child workers were employed mainly in agriculture (43.4 percent), in construction, as street vendors, and as domestic servants. The primary reasons given for working were to help support the family or to work in the family business or farm.

With help from the ILO, the Labor Ministry was working to phase out child labor in the formal sector and asked employers of children to notify the Ministry of such employment. The Ministry of Labor maintained an Office for the Eradication of Child Labor, and the Government has a number of social programs aimed at reducing the causes of child labor. These include providing small loans and economic aid to families with at-risk children and scholarships

Costa Rica Page 10 of 11

for poor families to cover the indirect costs of attending school. The country also implemented a number of programs aimed at reinserting child workers into the education system.

e. Acceptable Conditions of Work

The Constitution provides for a minimum wage. A National Wage Council, composed of three members each from government, business, and labor, set minimum wage and salary levels for all sectors. Monthly minimum wages for the private sector ranged from approximately \$142 (56,904 colones) for domestic employees to approximately \$560 (223,923 colones) for university graduates. Public sector negotiations, based on private sector minimum wages, normally followed the settlement of private sector negotiations. The Ministry of Labor effectively enforced minimum wages in the San Jose area but did so less effectively in rural areas. Especially at the lower end of the wage scale, the minimum wage was not sufficient to provide a worker and family with a decent standard of living.

The Constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Although often circumvented in practice, it also requires compensation for discharge without due cause. Generally, workers may work a maximum of 8 hours during the day and 6 at night, up to weekly totals of 48 and 36 hours, respectively. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers did not receive overtime pay if they voluntarily worked beyond their normal hours. Little evidence existed that employers coerced employees to perform such overtime.

A 1967 law on health and safety in the workplace requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the Government to inspect workplaces and to fine employers for violations. Most firms subject to the law established such committees but either did not use the committees or did not turn them into effective instruments for improving workplace conditions. The Government did not provide sufficient resources to the Labor Ministry to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside San Jose, or to verify effectively compliance with labor laws by the country's approximately 42,000 companies. Workers have the right to leave work if conditions become dangerous; however, workers who did so may jeopardize their jobs unless they file written complaints with the Ministry of Labor.

The Government estimated that there were as many as 500,000 Nicaraguans living in the country, many of them in irregular status, and working in agriculture near the Nicaraguan border.

f. Trafficking in Persons

The law prohibits trafficking in women and minors for the purpose of prostitution, but it does not address all severe forms of trafficking, and trafficking in persons was a problem.

The 1999 Law Against the Sexual Exploitation of Minors specifically penalizes persons who use children and adolescents under age 18 for erotic purposes and makes it a crime to engage in prostitution with minors. An adult who pays for sex with a minor can be sentenced to 2 to 10 years in prison. The Government took steps to enforce this law and raided brothels and arrested clients. The law provides for prison sentences from 4 to 10 years for those managing or promoting child prostitution.

On October 9, the authorities arrested "Sinai" Monge Munoz for allegedly operating a child prostitution ring in San Jose. It was alleged that she ran the operation for 11 years, supplying adolescents between the ages of 14 and 17 for purposes of prostitution. At year's end, she was detained pending trial; the authorities were investigating her for pimping.

In November 2002, Merlin Ocampo Chacon, a former Migration officer, was sentenced to 12 years' imprisonment for criminal association with an international document fraud operation and another official is awaiting trial for allegedly passing a false passport to a minor for transit through Panama to the United States.

In December 2002, a court convicted five persons arrested in 2001 for sexual exploitation of children; two were sentenced to 30 years' imprisonment and three to 16 years' imprisonment.

The government agencies responsible for addressing the problem include the Special Prosecutor on Domestic Violence and Sex Crimes, the Foreign Ministry, the Labor Ministry, the Public Security Ministry, the Child Welfare Ministry, and the Tourism Ministry.

Costa Rica Page 11 of 11

Costa Rica was a transit and destination country for trafficked persons and, to a lesser degree, a country of origin. Cases of trafficking have involved persons from Colombia, Dominican Republic, Panama, Nicaragua, Romania, and Russia. There also were reports of girls from the Philippines being trafficked to the country for the purpose of sexual exploitation. While evidence suggested that most trafficked persons remained in the country, some transited to Canada, Mexico, and the U.S. Some Costa Rican women, generally from impoverished backgrounds, have also been trafficked to Canada, Mexico, and the U.S. Traffickers often approach victims with a promise of secure employment and good pay.

Child prostitution was a serious problem. Although no official statistics existed, PANI identified street children in the urban areas of San Jose, Limon, and Puntarenas as being at the greatest risk. Child prostitutes have also been sent from San Jose to coastal and border communities. PANI estimates that 3,000 children suffer from commercial sexual exploitation.

There was no evidence at a national level of government tolerance of trafficking, and efforts were being made to raise awareness and encourage a professional, law enforcement approach to trafficking at the local level. These efforts, however, were hampered by a lack of resources. A government Inter-Ministerial Group on Trafficking was formed to address the problem. Each participating ministry reportedly incorporated preventive trafficking measures into its ministerial agenda. The Government supported prevention programs to combat sexual exploitation of minors and trafficking and a radio campaign to raise awareness about the plight of street children. There were limited formal mechanisms specifically designed to aid trafficked victims; however, the Government offered indirect assistance, such as stay-in-school programs, to child victims of trafficking. Victims were not granted temporary or permanent residence status and often were deported immediately to their country of origin.